



AF
TGW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

5 Applicant(s): Kanevsky et al.
Docket No.: YO999-411
Serial No.: 09/437,352
Filing Date: November 9, 1999
Group: 2132
10 Examiner: Cas P. Stulberger

I hereby certify that this paper is being deposited on this date with the U.S. Postal Service as first class mail addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Signature: *Gene Maurer* Date: September 1, 2005

Title: Methods and Apparatus for Verifying the Identity of a User Requesting Access Using Location Information

15.

REPLY BRIEF

20 Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

25

Sir:

Appellants hereby reply to the Examiner's Answer, mailed July 1, 2005 (referred to hereinafter as "the Examiner's Answer"), in an Appeal of the final rejection
30 of claims 1-58 in the above-identified patent application.

REAL PARTY IN INTEREST

A statement identifying the real party in interest is contained in Appellants' Appeal Brief.

35

RELATED APPEALS AND INTERFERENCES

A statement identifying related appeals is contained in Appellants' Appeal Brief.

40

STATUS OF CLAIMS

A statement identifying the status of the claims is contained in Appellants' Appeal Brief.

5 STATUS OF AMENDMENTS

A statement identifying the status of the amendments is contained in Appellant's Appeal Brief.

SUMMARY OF INVENTION

10 A Summary of the Invention is contained in Appellant's Appeal Brief.

ISSUES PRESENTED FOR REVIEW

A statement identifying the issues presented for review is contained in Appellants' Appeal Brief.

15 CLAIMS APPEALED

A copy of the appealed claims is contained in an Appendix of Appellant's Appeal Brief.

20 ARGUMENT

In the Examiner's Response to Arguments, the Examiner notes that the limitation "identifying a location of an authorized person associated with said response" is interpreted as meaning that the user has already been authorized prior to identifying a location of the user with a response.

25 As is well known in the art, an authorized person is a *person with the authority* to, for example, perform an action (e.g., an "authorized employee" may be authorized to access a particular computer system). Such an authorized person, however, typically needs to be "authenticated" prior to being allowed access to the computer system. It is not clear to Applicants if the Examiner is equating an "authorized" person
30 with an "authenticated" person.

The Examiner further asserts that “the location is then compared to the predefined location information for that client to a list of authorized client locations stored there” and that this meets the limitation of “identifying a location of an authorized person associated with said response.”

5 As noted in the Appeal Brief, MacDoran is directed to a method and apparatus for authenticating the identity of a remote user *entity* where the identity of such user entity is authenticated by use of information specific to geodetic location of the user *entity* (see, Abstract). MacDoran compares the *expected location of an electronic device* with the *current location of the device* and will not allow access if the locations do not
10 match. Appellants also note that MacDoran defines “entity” as an electronic device and specifically states that this definition “*does not extend to individual users* that operate an entity, because the invention does *not* have the ability to authenticate an individual person.” (Col. 6, lines 59-65; emphasis added.) Thus, MacDoran actually teaches away from the present invention by teaching that the invention cannot be used to authenticate
15 an individual person.

The Examiner further asserts that the user at the client location meets the limitation of a “registered person” and the threshold between the locations meets the limitation of the “predefined distance of said requested devices.”

Appellants note that the cited limitation requires identifying “*each*
20 *registered person* within a predefined distance of said requested device.” (See, for example, claim 39.) Since MacDoran identifies the location of a device, MacDoran does not disclose or suggest identifying each registered person within a predefined distance of said requested device.

The Examiner further asserts that “the list of predefined location
25 information for clients meets the limitation of ‘a location of each identified potential users,’” and that MacDoran discloses sending the state vectors to the host authentication server which defines the location of the client (col. 24, lines 12-14), and that this meets the limitation of “the location where said biometric information was obtained.”

Appellants note that the predefined location information for clients is
30 directed to the location of a client machine, not a “potential user.”

The Examiner further asserts that “one possible way of authenticating a user as known in the art is through a personal characteristic such as biometric characteristics including fingerprints, voice prints, retinal scans, etc...these methods are known in the art to authenticate a user who has to be physically present at the device in order to present their biometric characteristics.”

Contrary to the Examiner’s assertion, as noted above, a person does *not* have to be physically present at the device in order to present their biometric characteristics. The tests cited by the Examiner can falsely authenticate an individual who is actually an impostor, as would be apparent to a person of ordinary skill in the art. For example, fingerprints have been added to artificial limbs and have been authenticated by fingerprint systems as belonging to an authorized user. The location of the authorized user may not be the same as the location of the electronic device in the system taught by MacDoran since an impostor who has acquired such an artificial limb may access an electronic device while the authorized user is at another location. In the present invention, the location of the authorized user is determined in order to prevent such false authentications. Thus, MacDoran does not disclose identifying the location of the authorized user.

The Examiner further asserts that MacDoran discloses that “each user who wants to access the host authentication server supplies state vectors, which defines their GPS location,” and that various embodiments regarding the LSS suggests that each user has their own GPS device.

MacDoran suggests using a GPS associated with a device; Appellants, however, could find no disclosure or suggestion by MacDoran that each user has their own GPS device.

The Examiner further asserts that Applicant’s argument regarding a scenario that an impostor may access the electronic device while the authorized user is at another location is irrelevant since the argument is directed to limitations which are not disclosed in the claims.

Appellants’ arguments are relevant in understanding why a comparison of biometric information or characteristics *may not* result in the proper authentication of a person. In the present invention, a person is authenticated by also verifying the location

of a user, as determined by a GPS device associated with the user. MacDoran does not disclose or suggest this step.

The Examiner further asserts that, “in order for the user to biometrically authenticate the user needs to be present at the remote client machine.”

5 As noted above, an authorized user does not need to be present in order to access the host authentication server. Contrary to the Examiner’s assertion, the system taught by MacDoran does not require the authorized user to be present in order to have a successful comparison of biometric information. Thus, the “location of the machine” cannot be said to be the “location of the authorized user.”

10 Appellants also note that MacDoran does not assert that the invention verifies the location of the user; MacDoran only teaches to attempt to verify the location of the device.

 The Examiner further asserts that the LSS is a transmitting device and therefore meets the limitation of “wherein said location of an authorized person is
15 obtained by identifying the location of a transmitting device associated with said authorized person.”

 As noted above, MacDoran suggests using a GPS associated with a device; Appellants, however, could find no disclosure or suggestion by MacDoran that each user has their own GPS device.

20

Conclusion

 The rejections of the cited claims under section §103 in view of Li et al., MacDoran, and Meyer et al., alone or in any combination, are therefore believed to be improper and should be withdrawn. The remaining rejected dependent claims are
25 believed allowable for at least the reasons identified above with respect to the independent claims.

The attention of the Examiner and the Appeal Board to this matter is appreciated.

Respectfully,

A handwritten signature in black ink, appearing to read "Kevin M. Mason". The signature is fluid and cursive, with the first name "Kevin" being the most prominent.

Kevin M. Mason
Attorney for Applicant(s)
Reg. No. 36,597
Ryan, Mason & Lewis, LLP
1300 Post Road, Suite 205
Fairfield, CT 06824
(203) 255-6560

Date: September 1, 2005

APPENDIX

A copy of the appealed claims is contained in an Appendix of Appellant's Appeal Brief.

EVIDENCE APPENDIX

There is no evidence submitted pursuant to § 1.130, 1.131, or 1.132 or entered by the Examiner and relied upon by appellant.

5

RELATED PROCEEDINGS APPENDIX

There are no known decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of 37 CFR 41.37.



Attorney Docket: YO999-411

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Applicant(s): Kanevsky et al.
Docket No.: YO999-411
Serial No.: 09/437,352
Filing Date: November 9, 1999
Group: 2132
Examiner: Cas P. Stulberger

I hereby certify that this paper is being deposited on this date with the U.S. Postal Service as first class mail addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Signature: Kevin M. Mason Date: September 1, 2005

Title: Methods and Apparatus for Verifying the Identity of a User Requesting Access Using Location Information

TRANSMITTAL OF REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith are the following documents relating to the above-identified patent application:

(1) Reply Brief.

In the event of non-payment or improper payment of a required fee, the Commissioner is authorized to charge or to credit **IBM Corporation Deposit Account No. 50-0510** as required to correct the error. A duplicate copy of this letter is enclosed.

Respectfully,

Kevin M. Mason

Date: September 1, 2005

Kevin M. Mason
Attorney for Applicant(s)
Reg. No. 36,597
Ryan, Mason & Lewis, LLP
1300 Post Road, Suite 205
Fairfield, CT 06824
(203) 255-6560